



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

ROGER BERLINER
COUNCILMEMBER
DISTRICT 1

**Testimony of Roger Berliner
Montgomery County Councilmember**

**In Support of House Bill 391
Maryland Electricity Service Quality and Reliability Act**

**House Economic Matters Committee
February 24, 2011**

Mr. Chairman and Members of the Committee:

On behalf of the residents of Montgomery County and our County Council, let me begin by thanking the lead sponsor, Delegate Feldman, the Speaker, the Governor and the numerous co-sponsors for their support of this emergency measure.

Your Committee has many important matters before you this session, but I submit that none of them will have more of a positive impact on the day to day lives of more people than this bill.

For in most parts of the country, reliable electric service is an article of faith. Not in my County. In my county, it tests our faith. For the past five long years, the reliability of our electricity – when the weather isn't a factor – has ranked among the worst in the nation. The cumulative cost to our county of this utter failure – financial and psychological – has been enormous.

This sorry state of affairs is as inexcusable as it is unacceptable. Our residents have suffered at the hands of a utility that allowed its system to degrade and regulators that did not protect us. Five years ago, Pepco filed a report with the Public Service Commission (the "Commission") signaling that it had fallen into the lowest quartile in the nation in terms of reliability. And nothing happened. Nothing. Not until this past August, after the Governor, our County Council, and others pled for the Commission to act did the Commission come to realize the breadth and duration of this crisis.

The measure before you today is a critical first step in fixing this life threatening situation. Standards and accountability are two hallmarks of effective regulations throughout the country, yet absent in our great state. We need them and this bill makes sure we will have them.

I have a couple of suggestions to strengthen the measure:

First, it isn't standards per se that are important. What we need are standards equivalent to what top performing utilities throughout the nation provide. The bill appropriately establishes the goal that these standards result in top quartile service. I would simply reference that goal on page 2, line 28 of the bill.

Second, the measure properly recognizes that failure to meet these standards must result in financial penalties and refunds to our residents. This accountability is absolutely critical. To date, notwithstanding the huge financial burden Pepco has imposed on our community, it has suffered not a single penny's worth of penalties.

While civil penalties are one means to this end, they are only one means, and, with great respect, not a sufficient one. The Commission itself has recognized that a much broader range of penalties should be explored, including the possible revocation of the utility's franchise and other remedies.

The County believes that the most effective remedy would be a reduction in a utility's authorized return. As the AARP observes in testimony filed less than a week ago with the Commission, "a utility's authorized profit level should also be reduced based on poor performance. For example, Massachusetts law provides that regulators can levy a penalty of up to 2.5% of the utility's regulated base rate for the failure to meet the state's service quality and reliability standards."

We would urge this body to include a broader range of remedies in the bill, including a rate of return reduction, and to make it clear that whatever remedy is adopted, the guiding principle should be that the utility bear costs commensurate with those it imposes on our residents.

Mr. Chairman and Committee members, the Montgomery County Council asks you to act favorably on this measure.